

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL NO. 13-10200-GAO
)	
DZHOKHAR TSARNAEV)	

**SEALED REPLY TO GOVERNMENT'S MOTION
TO SUPPLEMENT JURY QUESTIONNAIRE**

Defendant, Dzhokhar Tsarnaev, by and through counsel, respectfully replies to the Government's Motion to Supplement the parties' agreed-upon proposed jury questionnaire with the following inflammatory question:

Do you believe the United States government sometimes attacks U.S. citizens or property and blames it on others in order to justify the "war on terror"?

The government correctly states one of the reasons why the defendant objects to this question: jurors are likely to attribute its presence on the questionnaire to an expectation — whether by the government, the defense, the Court, or all three — that the defendant actually intends to present such a bizarre and outrageous claim at trial. The prejudicial effect of such an inference is obvious. Even though no such defense would ever materialize, any juror who has been led to expect it (or even to suspect that it might be under consideration) will likely be biased against the defense from the start. Moreover, such a juror might not conclude from the lack of such a conspiracy-theory defense at trial that the defendant had *never* intended to present it, but only that he eventually chose not to. There is no reason to inject such a potentially prejudicial issue into a pretrial jury questionnaire, and good reasons not to.

In addition, the question is unnecessary. No juror who would answer “yes” to the government’s conspiracy-theory question could fail to disclose his or her attitudes in response to numerous other questions (and to ensuing follow-up), including:

- 48. If you have strongly positive or negative views about law enforcement officers, please explain.
- 64. Do you believe the United States government acts unfairly towards Muslims in this country or in other parts of the world?
- 65. Do you believe the “war on terror” unfairly targets Muslims?
- 66. Do you believe the “war on terror” is overblown or exaggerated?

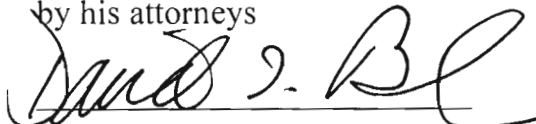
Assuming candor on the part of prospective jurors — and such an assumption is the basis for both a questionnaire and voir dire examination — any juror who believes that the Boston Marathon bombing was a murderous stunt engineered by the United States government will inevitably disclose that opinion in any event.

Conclusion

For these reasons, the defendant requests that the Court deny the government’s request to include a conspiracy-theory question in the supplemental jury questionnaire in this case.

Respectfully submitted,

DZHOKHAR TSARNAEV
by his attorneys

A handwritten signature in black ink, appearing to read "Judy Clarke", written over a horizontal line.

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I hereby certify that this document was hand-delivered to counsel of record on December 3, 2014.

